

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DELTA PILOTS ASSOCIATION,

Plaintiff,

ANSWER

-against-

Case No. 1:14-CV-00225-AKH

RUSSELL C. MELVIN,

Defendant.

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Defendant RUSSELL C. MELVIN, for his Answer to the Second Amended Complaint (“SAC”), alleges as follows:

NATURE OF THE CASE

1. Paragraph 1 contains statements of law for which no response is necessary. To the extent Paragraph 1 contains any allegations of fact, Defendant denies such allegations.

PARTIES

2. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 2.

3. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 3.

4. Defendant denies the allegations in Paragraph 4.

JURISDICTION AND VENUE

5. Paragraph 5 contains statements of law for which no response is necessary. To the extent Paragraph 5 contains any allegations of fact, Defendant denies such allegations.

6. Paragraph 6 contains statements of law for which no response is necessary.
7. Paragraph 7 contains statements of law for which no response is necessary.
8. Paragraph 8 contains statements of law for which no response is necessary. To the extent Paragraph 8 contains any allegations of fact, Defendant denies such allegations.

FACTS

9. Paragraph 9 contains statements of law for which no response is necessary. To the extent Paragraph 9 contains any allegations of fact, Defendant denies knowledge or information sufficient to form a belief as to the truth of such allegations.
10. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 10.
11. Paragraph 11 contains statements of law for which no response is necessary.
12. Paragraph 12 contains statements of law for which no response is necessary.
13. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 13.
14. Defendant denies the allegations contained in Paragraph 14.
15. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 15.
16. Defendant denies knowledge or information sufficient to form a belief as to the

truth of the allegations set forth in Paragraph 16.

17. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 17.

18. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 18.

19. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 19.

20. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 20.

21. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 21.

22. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 22.

23. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 23.

24. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 24.

25. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 25.

26. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 26.

27. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 27.

28. Paragraph 28 contains statements of law for which no response is necessary. To the extent Paragraph 28 contains any allegations of fact, Defendant denies knowledge or information sufficient to form a belief as to the truth of such allegations.

29. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 29.

30. Defendant denies the allegations contained in Paragraph 30.

31. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 31.

32. Defendant denies the allegations contained in Paragraph 32.

33. Defendant denies the allegations contained in Paragraph 33, except that Defendant admits that he co-owns property in Nashville.

34. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 34.

35. Defendant denies the allegations contained in Paragraph 35, except that Defendant admits that he was never authorized to access any Squarespace account owned by

DPA.

36. Defendant denies the allegations contained in Paragraph 36, except that Defendant admits that he has been an open and active member of ALPA for many years and has been a member of several ALPA committees including ALPA's Government Affairs Committee.

37. Defendant denies the allegations contained in Paragraph 37.

38. Defendant denies the allegations contained in Paragraph 38.

39. Defendant denies the allegations contained in Paragraph 39, except that Defendant admits that he has owned a Squarespace account.

40. Defendant denies the allegations contained in Paragraph 40.

41. Defendant denies the allegations contained in Paragraph 41.

42. Defendant denies the allegations contained in Paragraph 42.

43. Defendant denies the allegations contained in Paragraph 43.

44. Defendant denies the allegations contained in Paragraph 44.

45. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 45.

46. Defendant denies the allegations contained in Paragraph 46.

47. Defendant denies the allegations contained in Paragraph 47.

48. Defendant denies the allegations contained in Paragraph 48.

49. Defendant denies the allegations contained in Paragraph 49.

50. Defendant denies the allegations contained in Paragraph 50.

51. Defendant denies the allegations contained in Paragraph 51.

52. Defendant denies the allegations contained in Paragraph 52.

53. Defendant denies the allegations contained in Paragraph 53.

54. Defendant denies the allegations contained in Paragraph 54.

55. Defendant denies the allegations contained in Paragraph 55.

56. Defendant denies the allegations contained in Paragraph 56.

57. Defendant denies the allegations contained in Paragraph 57.

58. Paragraph 58 contains statements of law for which no response is necessary. To the extent Paragraph 58 contains any allegations of fact, Defendant denies such allegations.

59. Paragraph 59 contains statements of law for which no response is necessary. To the extent Paragraph 59 contains any allegations of fact, Defendant denies such allegations.

60. Defendant denies the allegations contained in Paragraph 60.

61. Defendant denies the allegations contained in Paragraph 61.

62. Defendant denies the allegations contained in Paragraph 62.

63. Defendant denies the allegations contained in Paragraph 63.

64. Defendant denies the allegations contained in Paragraph 64.

65. Defendant denies the allegations contained in Paragraph 65.

66. Defendant denies the allegations contained in Paragraph 66.

67. Defendant denies the allegations contained in Paragraph 67.

68. Defendant denies the allegations contained in Paragraph 68.

69. Paragraph 69 contains statements of law for which no response is necessary. To the extent Paragraph 69 contains any allegations of fact, Defendant denies such allegations.

70. Defendant denies the allegations contained in Paragraph 70.

71. Defendant denies the allegations contained in Paragraph 71.

72. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 72.

73. Defendant denies the allegations contained in Paragraph 73, except that Defendant admits that he has used the email address rcmelvin@mac.com.

74. Defendant denies the allegations contained in Paragraph 74.

75. Defendant denies the allegations contained in Paragraph 75.

76. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 76.

77. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 77.

78. Defendant denies the allegations contained in Paragraph 78.

79. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 79.

80. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 80.

81. Defendant denies the allegations contained in Paragraph 81.

82. Defendant denies the allegations contained in Paragraph 82.

83. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 83.

84. Defendant denies the allegations contained in Paragraph 84.

85. Paragraph 85 contains statements of law for which no response is necessary.

86. Paragraph 86 contains statements of law for which no response is necessary.

FIRST CAUSE OF ACTION

(Computer Fraud and Abuse Act, 18 U.S.C. § 1030(a)(5)(A))

87. Defendant incorporates by reference his responses, as if fully set forth here, all preceding paragraphs of this Answer.

88. Paragraph 88 contains statements of law for which no response is necessary. To the extent Paragraph 88 contains any allegations of fact, Defendant denies such allegations.

89. Paragraph 89 contains statements of law for which no response is necessary.

90. Defendant denies the allegations contained in Paragraph 90.

91. Defendant denies that Plaintiff is entitled to the relief described in Paragraph 91.

92. Paragraph 92 contains statements of law for which no response is necessary.

93. Defendant denies that Plaintiff is entitled to the relief described in Paragraph 93.

94. Paragraph 94 contains statements of law for which no response is necessary. To the extent Paragraph 94 contains any allegations of fact, Defendant denies such allegations.

SECOND CAUSE OF ACTION

(Computer Fraud and Abuse Act, 18 U.S.C. § 1030(a)(5)(B))

95. Defendant incorporates by reference his responses, as if fully set forth here, all preceding paragraphs of this Answer.

96. Paragraph 96 contains statements of law for which no response is necessary. To

the extent Paragraph 96 contains any allegations of fact, Defendant denies such allegations.

97. Paragraph 97 contains statements of law for which no response is necessary.

98. Defendant denies the allegations contained in Paragraph 98.

99. Defendant denies that Plaintiff is entitled to the relief described in Paragraph 99.

100. Paragraph 100 contains statements of law for which no response is necessary.

101. Defendant denies that Plaintiff is entitled to the relief described in Paragraph 101.

102. Paragraph 102 contains statements of law for which no response is necessary. To the extent Paragraph 102 contains any allegations of fact, Defendant denies such allegations.

THIRD CAUSE OF ACTION

(Computer Fraud and Abuse Act, 18 U.S.C. § 1030(a)(5)(C))

103. Defendant incorporates by reference his responses, as if fully set forth here, all preceding paragraphs of this Answer.

104. Paragraph 104 contains statements of law for which no response is necessary. To the extent Paragraph 104 contains any allegations of fact, Defendant denies such allegations.

105. Paragraph 105 contains statements of law for which no response is necessary.

106. Defendant denies the allegations contained in Paragraph 106.

107. Defendant denies that Plaintiff is entitled to the relief described in Paragraph 107.

108. Paragraph 108 contains statements of law for which no response is necessary.

109. Defendant denies that Plaintiff is entitled to the relief described in Paragraph 109.

110. Paragraph 110 contains statements of law for which no response is necessary. To the extent Paragraph 110 contains any allegations of fact, Defendant denies such allegations.

111. Except to the extent not specifically admitted above, Defendant denies each and every allegation in the SAC.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

112. Plaintiff's claim is barred by the applicable statute of limitations.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

113. The SAC fails to state a claim upon which relief can be granted.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

114. If the damage and/or loss alleged in the SAC actually occurred, it was caused in whole or in part by Plaintiff's own conduct.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

115. Defendant's alleged acts or omissions were not the proximate cause of any damage and/or loss alleged in the SAC.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

116. Any damages and/or loss sustained by Plaintiffs as alleged in the SAC were caused by the conduct of a person, or persons, unknown, and not by Defendant.

PRAYER FOR RELIEF

WHEREFORE, Defendant requests that the Court enter an order dismissing the SAC in its entirety, awarding Defendant reasonable attorneys' fees, costs and disbursements, and granting such other relief as this Court deems just and equitable.

Dated: April 24, 2017
New York, New York

LEVY RATNER, P.C.



By: Dana E. Lossia
Alek Felstiner
Attorneys for Russell Melvin
80 Eighth Avenue, 8th Fl.
New York, NY 10011
(212) 627-8100
(212) 627-8182 (fax)
dlossia@levyratner.com
afelstiner@levyratner.com